

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD E. BIBLE,	§
	§ No. 716, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 0501015134
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 14, 2010

Decided: July 7, 2010

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

**ORDER**

This 7<sup>th</sup> day of July 2010, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Donald E. Bible, filed an appeal from the Superior Court's October 8, 2009 order, which adopted the August 5, 2009 report of the Superior Court Commissioner recommending that Bible's postconviction motion be denied.<sup>1</sup> We find no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that, in March 2005, the grand jury indicted Bible on 111 criminal offenses, including over 20 counts of Rape in the First

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<sup>1</sup> Del. Code Ann. tit. 10, §512(b); Super. Ct. Crim. R. 62.

Degree. The charges stemmed from sexual assaults on twin girls over a 10-year period, beginning when they were less than 5 years old. In February 2006, the State offered Bible a plea to 2 counts of Rape in the First Degree with a presentence investigation to be conducted. After further discussions between the prosecutor and defense counsel, the State revised its plea offer to 1 count of Rape in the First Degree, 1 count of Rape in the Third Degree as a lesser-included offense, and 1 count of Continuous Sexual Abuse of a Child. As part of the revised plea offer, the State agreed to drop the remaining criminal charges, refrain from requesting a presentence investigation, and recommend a total Level V sentence of 36 years, including 19 years of minimum mandatory time.

(3) On October 2, 2006, with the assistance of counsel, Bible accepted the State's revised plea offer and pleaded guilty to the 3 charges. The Superior Court followed the State's recommendation on sentencing. Bible did not file a direct appeal from his convictions. He did file 2 motions for sentence modification and a motion to withdraw his guilty plea, all of which were denied. This is Bible's appeal from the Superior Court's denial of his second motion for postconviction relief.<sup>2</sup>

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<sup>2</sup> Bible's first postconviction motion was rejected by the Superior Court because it was not in proper form.

(4) In his second motion for postconviction relief filed in the Superior Court, Bible asserted three claims: a) his trial counsel suppressed evidence favorable to him; b) his trial counsel provided ineffective assistance; and c) his trial counsel changed the plea agreement without his knowledge. In his appeal from the Superior Court's denial of his motion, Bible asserts only one of his three original claims---that his plea agreement was altered without his knowledge. On that ground, Bible argues that his plea was involuntary.<sup>3</sup> Bible also claims that the Superior Court's denial of his postconviction claims was erroneous and that the Superior Court abused its discretion by failing to hold an evidentiary hearing.

(5) Bible's claim of an involuntary guilty plea is belied by the transcript of his guilty plea hearing. The transcript reflects that Bible stated he understood the charges to which he was pleading guilty, he was aware of the possible sentences, he was aware that the Superior Court was not bound by the recommendation of the State, he understood the guilty plea form and plea agreement, he had discussed the plea and its consequences with his counsel, he was satisfied with his counsel's representation, and his plea was entered voluntarily. Moreover, Bible apologized to his victims for his actions. In the absence of clear and convincing evidence to the contrary,

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<sup>3</sup> As such, Bible's other two claims are deemed to be waived. *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

Bible is bound by the sworn statements he made to the Superior Court judge during his guilty plea colloquy.<sup>4</sup> Bible's suggestion that he was unaware of the revisions to his original plea agreement is belied by the transcript of the plea hearing as well as the guilty plea form and the plea agreement.

(6) Bible's additional claims that the Superior Court's denial of his postconviction motion was erroneous and that the Superior Court abused its discretion by failing to schedule an evidentiary hearing also are without merit. Bible's motion was properly denied by the Superior Court both on procedural and substantive grounds and, moreover, was properly denied solely on the submissions of the parties, with no need for an evidentiary hearing.<sup>5</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>4</sup> *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

<sup>5</sup> Super. Ct. Crim. R. 61(h)(3).